For a law to pass in the Senate, it must appeal to Senators in both parties. This virtually assures that the bill did not originate from the extreme wing of either one and, thus, best represents the interests of the broadest swath of Americans. The Senate's minority empowerment has meant that America's policies inevitably tack towards the center. As Senator Biden previously affirmed: ''At its core, the filibuster is not about stopping a nominee or a bill, it is about compromise and moderation.''

Consider how different the Senate would be without the filibuster. Whenever one party replaced the other as majority, tax and spending priorities would change, safety net programs would change, national security policy could change, cultural issues would careen from one extreme to the other—creating uncertainty and unpredictability for families, for employers, and for our friends abroad.

The need to marshal 60 votes requires compromise and middle ground. It empowers the minority. And it has helped to keep us centered as a nation, fostering the stability and predictability that are essential for investments in people, in capital, and in the future. Abandoning the principle of minority empowerment would fundamentally change a distinct and essential role of the U.S. Senate.

But today's Democrats, now with the barest of majorities in a 50–50 Senate, conveniently ignore their own impassioned defense of the filibuster when they were in the minority. Let us be clear that those who claim the filibuster is racist know better.

For President Obama to make this absurd charge after he, himself, made a vigorous and extensive defense of the filibuster just a few years ago is both jarring and deeply disappointing. After all, I don't recall a single claim from Democrats that employing the filibuster hundreds of times over the last several years when they were in the minority was in any way racist.

Over the course of my life, I have found that when presented with a matter of personal advantage that would require abandoning principles, the human mind goes to work overtime to rationalize taking that advantage.

Only a few months ago, some of my Senate Democratic colleagues rationalized that the Senate couldn't function and, therefore, they had to get rid of the 60-vote rule. But then the Senate functioned quite well when it passed the infrastructure bill, armed services legislation, and a bill on innovation.

So, a few months later, some of these colleagues argued that in order to raise the debt ceiling, the 60-vote rule has to go. Then, with bipartisan cooperation, the Senate raised the debt ceiling.

So now, the Democrats' latest rationalization is that their partisan new election law must be passed. But Democrats have filed these voting bills numerous times over numerous years, always without seeking Republican involvement in drafting them. Anytime legislation is crafted and sponsored exclusively by one party, it is obviously an unserious, partisan effort.

Let me note two more truths. The country is sharply divided right now. Despite the truth spoken by a number of good people in my party, most Republicans believe Donald Trump's lie that the 2020 election was fraudulent, stolen by Democrats. That is almost half the country.

Can you imagine the anger that would be ignited if they see Democrats alone rewrite, with no Republican involvement whatsoever, the voting laws of the country? If you want to see division and anger, the Democrats are heading down the right road.

There is also a reasonable chance Republicans will win both Houses in Congress and that Donald Trump himself could once again be elected President in 2024. Have Democrats thought what it would mean for them for the Democrat minority to have no power whatsoever?

And finally, Mr. President, I offer this thought: How absurd is it to claim that, to save democracy, a party that represents barely half the country must trample on the rules of our democracy's senior institution?

The PRESIDING OFFICER. The Senator from Rhode Island.

U.S. SUPREME COURT

Mr. WHITEHOUSE. Mr. President, with my distinguished colleague from Utah here, I would just—before I get to my remarks—suggest that there may be an exception to his rule that when a piece of legislation is only sponsored by Members of one party it can't be serious legislation; and, in my view, that would include climate legislation, where it has been extremely hard to get Republicans to cosponsor any serious climate bill. And I think that has nothing to do with the seriousness of the legislation and everything to do with the influence of the fossil fuel industry.

But that said, Mr. President, I am here to speak for the 11th time in my series discussing the scheme through which a bunch of big, anonymous donors captured our Supreme Court.

Today, I am going to talk about the Biden Supreme Court commission, which could have done a useful, even authoritative investigation of the scheme and all its terrible effects at the Court but which, regrettably, ended up as an exercise in ineffectual time-killing.

I have laid out the scheme in detail in earlier speeches in this series. In a nutshell, there is a very well-studied phenomenon of regulatory capture, sometimes called agency capture, through which big industries try to capture and control the regulatory agencies that are supposed to be policing them.

Well, in the same way, big, rightwing donor interests set out to capture the Supreme Court. And they did it. It worked. Now, the Court's 6-to-3, big-donor-chosen supermajority is delivering massive wins for those donor interests, and the American people can smell what Justice Sotomayor aptly characterized as the ''stench'' of a captured Court.

The problems of the Court are real, and they demand action. Enter the Court commission. Charged with thinking through solutions to the Court's many problems, the commission was perfectly positioned to report on the scheme and offer a blueprint for restoring the Court. But its final findings, released last month, offered instead what I have called faculty-lounge pabulum.

Sure, yes, they gestured toward the need for a code of ethics for the Justices, which makes sense because Supreme Court Justices have the lowest ethics standard of any top Federal official. But pointing that out is a little bit like pointing out a flat tire on a totaled car.

Consider the facts the commission ignored: A private, partisan, anonymously funded organization—the Federalist Society—handpicked the last three Supreme Court Justices. President Trump and his White House counsel admitted they had ''in-sourced''—their word—the Federalist Society to the White House to choose their nominees.

Senator Hatch, our former colleague, former chairman of the Judiciary, was asked if this role was outsourced to the Federalist Society, and he said, ''Damn right.''

No other democracy in the world has had such a ridiculous system for selecting Judges. That is bad. It gets worse. Anonymous donations helped rightwing front groups mount a $400 million push to capture and control the Court with zero transparency into who gave the money or—more importantly—what matters they had before the Court whose Justices they were installing. That is disgraceful. And trust me, nobody spends $400 million without a motive.

There is more. Orchestrated flotillas of amici curiae, so-called friends of the court, funded by dark money, instruct the Court which way to rule, and they score virtually perfect success with the Republican appointees whom dark money ushered onto the Court.

The Court has even allowed peculiar fast lanes for dark money groups to speed cases to the Court for Justices to decide favored, politically helpful cases. In some cases, the Justices even invited the case to be rushed to the Court.

And this mess culminates in a notable, troubling statistical record. The Roberts Court delivered more than 80—80—partisan 5-to-4 decisions benefiting big Republican donor interests. The record in that category of decisions was 80 to 0, and that is before the Court's new 6–3, donor-chosen supermajority.

That is a lot for the Commission to leave out. The Commissioners can't claim they did not have fair notice.

Several of us wrote to the Commission to point out the scheme's telltale footprints. The Commission even received testimony about another pernicious issue: the Court's reliance on fake facts supplied by dark money amici curiae, especially in politically important cases for the rightwing donors like Shelby County and Citizens United. Somehow, none of this made it into the Commission's discussion.

Ducking all these facts was no small feat. As the Presiding Officer knows, one of the first exercises that law professors give their first-year law students is called issue spotting. You get a case, and you are asked to go through it and list all the potential issues it raises, spot the issues. Well, these issues all sat in plain view before the Commission. Yet the Commission flunked the rudimentary law school test of issue spotting.

Now, part of the problem was conflict of interest. Many members of this Commission argue before the Court and need its good will for their bread and butter. Others are law professors eager to plant their students in prestigious Supreme Court clerkships. For many members, rocking the boat could have unhappy consequences.

Clearly, though, some Commission members tried and failed to get these issues considered. Two members—retired Federal Judge Nancy Gertner from the Presiding Officer's home State and Harvard Law School's Laurence Tribe—had an op-ed ready for print the day the report was released. They called for a serious overhaul of the Court due to what they called ''the dubious legitimacy of the way some Justices were appointed,'' due to that stench of bipartisanship Justice Sotomayor has observed, and due to what they called the ''anti-egalitarian direction'' of the Court's political decisions on voting rights and dark money.''

Judge Gertner and Professor Tribe wrote:

> Though fellow commissioners and others have voiced concern about the impact that a report implicitly criticizing the Supreme Court might have on judicial independence and thus judicial legitimacy, we do not share that concern. Far worse are the dangers that flow from ignoring the court's real problems—of pretending conditions have not changed; of insisting improper efforts to manipulate the court's membership have not taken place; of looking the other way when the court seeks to undo decades of precedent relied on by half the population to shape their lives just because, given the new majority, it has the votes.

Judge Gertner and Professor Tribe rightly warned that we can't afford more decisions like Shelby County and Citizens United, which would put the Court on what they called a ''one-way trip from a defective but still hopeful democracy toward a system in which the few corruptly govern the many, something between autocracy and oligarchy.''

Think about that. People distinguished enough to be appointed to this Commission by the President feel that this Court is on a one-way trip from America being a defective but still hopeful democracy toward a system in which the few corruptly govern the many.

They concluded by saying this:

> Instead of serving as a guardrail against going over that cliff, our Supreme Court has become an all-too-willing accomplice—

Accomplice—

> in that disaster.

All of that was kept out of the report.

The fact is evident that dark money political forces had a controlling and anonymous role in the makeup of the present Court. You can't dispute that. It is not surprising that the donor interests who accomplished that should want their due. As I said, you don't spend $400 million on this scheme for nothing.

Just a few days before the Commission unveiled the final draft of its report and right after oral arguments in the big abortion cases that are pending before the Court, there was a telling incident. FOX News host Laura Ingraham lost her cool, and she said on plain television the quiet part out loud. Here is what she said:

> We have six Republican appointees on this court, after all the money that has been raised, the Federalist Society, all these big fat cat dinners—I'm sorry, I'm pissed about this—

Excuse me for that language, but it is a direct quote—

> if this court with six justices cannot do the right thing here . . . then I think it's time to do what Robert Bork said we should do, which is to circumscribe the jurisdiction of this court and if they want to blow it up, then that's the way to change things finally.

Let's deconstruct that little outburst for a second.

First, it basically admits to the scheme: ''all the money that has been raised''—that is the $400 million I talked about; ''the Federalist Society''—that is the big donor-controlled turnstile for rightwing advancement to the Supreme Court; and ''all these big fat cat dinners''—wow. I would love to know more about that. We do know that Justices have taken undisclosed vacations in the company of people with interests before the Court, so what is a little ''big fat cat dinner'' among friends, huh?

Second, that little outburst is a flat-out threat to the Court: Decide the big abortion cases the way we want, the six of you, or we ''circumscribe the jurisdiction of this court''; ''blow it up''; ''change things finally.''

There is a particularly thin-skinned Federalist Society Justice who has been giving speeches condemning an imaginary threat I supposedly made to ''bully'' the Court in a brief maybe read by a couple of hundred people. It didn't actually happen that way, but never mind. Like I said, he is particularly thin-skinned.

But now here comes this plain threat: ''circumscribe the jurisdiction of this court''; ''blow it up''; ''change things finally'' if we don't get the outcome we deserve after all of our money spent through the Federalist Society.

So I am waiting to see what reaction from this Justice there is when this real threat comes, but from the rightwing FOX News channel. The FOX News outburst was particularly rash and indiscreet, but the Republican Justices get marching orders like this all the time at the fat-cat dinners, on junkets with the rightwing donor class, and from the orchestrated flotillas of dark money amici curiae that encircle the Court for big cases launched by the big donors.

The Justices are constantly reminded of who propelled them to the Court and what they are supposed to deliver. And the truth is, the record reveals, the statistics make plain the Republican Justices do deliver over and over and over again—more than 80 partisan wins for scheme donors in those 5-to-4—and now we can expect 6-to-3—partisan decisions.

So the Biden Court Commission missed its moment. It ducked all of this. So on we must go through the stench of partisan capture of the Court, and on I will go exposing the scheme that did it.

To be continued.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PETERS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILIBUSTER

Ms. MURKOWSKI. Mr. President, there has been a lot of discussion on the floor, certainly today and the days leading up to this, as we talk about the importance of protecting minority rights here in the Senate and the consequences of weakening the legislative filibuster to a 50-vote, majority-serving threshold. There is a lot to say, and there has been a lot said already.

I was here listening to the comments from my friend from Utah and have had an opportunity to hear much of what has been said throughout the course of the day. But I am here perhaps as the sole Senate Republican who will vote to begin debate on the John Lewis Voting Rights Advancement Act because I happen to believe that it is important that we focus on improving our election laws, but I also believe very, very strongly that the way to do that is through the regular order process. It might sound kind of boring, but that is actually how you get the good work, the enduring legislation done.

I am also here, I guess, as a senior Member of the Chamber now. I have been around for almost 20 years. I have spent time in both the majority and the minority. But I am also here because I care—I really care—about legislating. I understand what it takes to